

NOV-06-2006 MON 11:28 AM JASON AND FISCHER

FAX NO.

P. 03

EXHIBIT

A

Deposition of Kenneth Jean Volume 3  
August 23, 2006

676

02:50:10 1 Q. Okay. Are you aware of your wife's  
02:50:15 2 being diagnosed as abusing alcohol as of May  
02:50:20 3 of 2001?  
02:50:25 4 A. Am I aware of her being -- I don't  
02:50:30 5 know what she's been diagnosed of, ma'am, in  
02:50:35 6 most part.  
02:50:40 7 Q. Were you present with her when she  
02:50:45 8 went to the hospital in May of 2001?  
02:50:50 9 A. I've been present with her a couple  
02:50:55 10 of times at the hospital. I don't know which  
02:51:00 11 incident you're referring to.  
02:51:05 12 Q. Do you recall any occurrences on  
02:51:10 13 which you actually took her to the hospital?  
02:51:15 14 A. Yes, ma'am.  
02:51:20 15 Q. And do you recall taking her to the  
02:51:25 16 hospital the day after the incident in May of  
02:51:30 17 2001?  
02:51:35 18 A. I believe I do.  
02:51:40 19 Q. Did you provide information to any  
02:51:45 20 healthcare professional about your wife's  
02:51:50 21 history or condition at any time?  
02:51:55 22 A. I don't know, ma'am.  
02:52:00 23 Q. Are you aware of your wife attending  
02:52:05 24 Alcoholics Anonymous?

CURRAN COURT REPORTING

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02:52:08 1 A. Yes, ma'am, she went with me.  
02:52:13 2 Q. And when is it that you claim you  
02:52:18 3 went?  
02:52:23 4 A. I'm sorry?  
02:52:28 5 Q. When is it that you claim you went?  
02:52:33 6 A. Oh, multiple dates over years.  
02:52:38 7 Q. When did you start going?  
02:52:43 8 A. Would have been the first DUI.  
02:52:48 9 Q. Your first DUI was 15, 20 years ago,  
02:52:53 10 right?  
02:52:58 11 A. I don't know when the first one was,  
02:53:03 12 ma'am. It would have been the first one that  
02:53:08 13 Ashburnham had charged with me.  
02:53:13 14 Q. Was it before you were married?  
02:53:18 15 A. Well, I believe it might have been  
02:53:23 16 before, yeah, I'm almost certain it was.  
02:53:28 17 Q. So you had -- you heard your wife  
02:53:33 18 testify today that she didn't go to AA until  
02:53:38 19 after the house fire?  
02:53:43 20 A. That would be incorrect.  
02:53:48 21 Q. Do you claim that any of the  
02:53:53 22 activities of the Winchendon Police Department  
02:53:58 23 had anything to do with an officer by the name  
02:54:03 24 of Whitaker?

CURRAN COURT REPORTING

99 49 sheets

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02:52:36 1 A. Yes, ma'am.  
02:52:41 2 Q. You never mentioned that prior to me  
02:52:46 3 asking you that question, is that fair to  
02:52:51 4 state? We've been sitting here for almost  
02:52:56 5 three hours, correct?  
02:53:01 6 A. Why would I, ma'am? I totally  
02:53:06 7 forgot him. He was not part of this  
02:53:11 8 harassment, that all came about after. He was  
02:53:16 9 a very early age, I'm going to say 1988 or  
02:53:21 10 '89, it was a lone event, it was totally  
02:53:26 11 unrelated to all of this.  
02:53:31 12 Q. Totally unrelated to all of this?  
02:53:36 13 A. Yes, ma'am. Unless any of the  
02:53:41 14 police departments harbor animosity towards me  
02:53:46 15 from that, but I would have no knowledge of  
02:53:51 16 that.  
02:53:56 17 MR. FISCHER: Wait for a  
02:54:01 18 question, answer the question and  
02:54:06 19 then wait for the next question.  
02:54:11 20 Q. Is it fair to state that you don't  
02:54:16 21 have any personal knowledge of any of the  
02:54:21 22 incidents that occurred between the Winchendon  
02:54:26 23 police officers and your wife other than  
02:54:31 24 information you received from your wife?

CURRAN COURT REPORTING

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02:54:36 1 A. No, ma'am.  
02:54:41 2 Q. From whom did you receive  
02:54:46 3 information other than your wife regarding the  
02:54:51 4 incidents that occurred between the Winchendon  
02:54:56 5 police officers and your wife?  
02:55:01 6 A. Chief Harrington for one. All the  
02:55:06 7 court cases I attended with my wife, that type  
02:55:11 8 of thing, all probation interviews we went to.  
02:55:16 9 Q. Well, what information did you  
02:55:21 10 receive during the course of those events  
02:55:26 11 other than the information from your wife?  
02:55:31 12 From whom did you --  
02:55:36 13 A. I would have been privy to all her  
02:55:41 14 police reports. The police reports with  
02:55:46 15 prostitute on it, I certainly seen a number of  
02:55:51 16 times. Conversations with her counsel,  
02:55:56 17 probation officer, again, Paul Trippi, things  
02:56:01 18 to that effect.  
02:56:06 19 Q. I'm asking you about anybody that  
02:56:11 20 has any personal knowledge of the events that  
02:56:16 21 occurred between your wife and the Winchendon  
02:56:21 22 Police Department, do you have any information  
02:56:26 23 from any source as to the facts that existed  
02:56:31 24 between your wife and the Winchendon police

CURRAN COURT REPORTING

NOV-06-2006 MON 11:29 AM JASON AND FISCHER

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P. 04

Deposition of Kenneth Jean Volume 3  
August 23, 2006

00:12:43 1 testimony, sir? 700  
00:12:48 2 A. Yes, I do.  
00:12:49 3 Q. I thought earlier, and correct me if  
00:12:52 4 I'm wrong, I thought earlier you testified  
00:12:53 6 that that request to investigate had been made  
00:12:56 6 to Ashburnham Police Department?  
00:12:57 7 A. No, sir, Winchendon. That was  
00:12:58 8 before I moved to Ashburnham.  
00:13:00 8 Q. So earlier when you were responding  
00:13:02 10 to my questions about your discussions with  
00:13:05 11 the police about the investigation of  
00:13:08 12 embezzlement, you were referring to the  
00:13:10 13 Winchendon Police Department?  
00:13:11 14 A. Yes, sir. I'm sorry if I didn't --  
00:13:14 16 Q. It may have been a misunderstanding  
00:13:15 16 on my part, I just want to clarify that. Did  
00:13:18 17 Ashburnham Police have anything to do with the  
00:13:20 18 investigation of the embezzlement charges,  
00:13:22 19 sir?  
00:13:22 20 A. Absolutely not, sir.  
00:13:24 21 Q. The last question I want to ask you  
00:13:27 22 is just a follow-up on the Officer Whitaker  
00:13:29 23 allegations that you said were unrelated to  
00:13:34 24 this. Do you recall that testimony, sir?  
CURRAN COURT REPORTING

00:13:39 1 A. Yes, sir. 701  
00:13:40 2 Q. Just to clarify what it was we were  
00:13:43 3 referring to. What happened with Officer  
00:13:45 4 Whitaker back in '88 or '89 as you described?  
00:13:48 5 A. I believe it was early '89, probably  
00:13:51 6 February, Officer Whitaker arrested me for  
00:13:54 7 DWI, it turned out that he had never completed  
00:13:57 8 the Civil Service test so he could not be a  
00:14:00 9 police officer in Winchendon and they threw  
00:14:03 10 his cases out.  
00:14:06 11 Q. Because he wasn't a qualified police  
00:14:09 12 officer at the time of the arrest?  
00:14:12 13 A. And the town paid me the sum of \$1  
00:14:15 14 to not file a suit against him.  
00:14:18 15 Q. And how was that payment of \$1 made  
00:14:21 16 by the town?  
00:14:24 17 A. They never paid it.  
00:14:27 18 Q. So do you have any record of any  
00:14:30 19 agreement from --  
00:14:33 20 A. It was said in open court. I  
00:14:36 21 imagine they do the thing in court thing.  
00:14:39 22 Q. In open court someone from the  
00:14:42 23 Winchendon Police said we will pay him \$1 not  
00:14:45 24 to bring a claim?  
CURRAN COURT REPORTING

00:14:51 1 A. The Winchendon Council I believe it 702  
00:14:54 2 was, yes, sir. I believe it was the  
00:14:57 3 Winchendon Council when they said 'cause it  
00:15:00 4 was all done, you know, 'cause it was all  
00:15:03 5 done, you know, you go make the deal behind  
00:15:06 6 doors and then they come out and they announce  
00:15:09 7 it to the judge saying they're going to  
00:15:12 8 withdraw this police officer in -- what do  
00:15:15 9 they call it -- fair payment of \$1 to Mr. Jean  
00:15:18 10 and stuff and then I actually did say  
00:15:21 11 something after, I said where's my buck, and  
00:15:24 12 it was Attorney Pusateri said don't push it.  
00:15:27 13 Q. Attorney Pusateri said don't push  
00:15:30 14 it?  
00:15:33 15 A. Yes, sir.  
00:15:36 16 Q. That was your attorney at the time?  
00:15:39 17 A. Yes, sir.  
00:15:42 18 Q. Do you remember who town council was  
00:15:45 19 for Winchendon at that time?  
00:15:48 20 A. No, sir.  
00:15:51 21 Q. Did Officer Whitaker, he was working  
00:15:54 22 for the Winchendon Police Department at that  
00:15:57 23 time?  
00:16:00 24 A. Yes, sir.  
CURRAN COURT REPORTING

00:16:03 1 Q. That didn't have anything to do with 703  
00:16:06 2 Ashburnham either?  
00:16:09 3 A. No, sir.  
00:16:12 4 MR. CLOHERTY: I don't have  
00:16:15 5 any further questions for you  
00:16:18 6 subject to the same reservations as  
00:16:21 7 Ms. Pelletier.  
00:16:24 8 MR. STERN: I just have one  
00:16:27 9 more question based on Whitaker  
00:16:30 10 stuff.  
00:16:33 11 RE-CROSS-EXAMINATION  
00:16:36 12 By Mr. Stern:  
00:16:39 13 Q. How did it come -- do you know how  
00:16:42 14 it came to be known that Officer Whitaker  
00:16:45 15 didn't take the Civil Service exam?  
00:16:48 16 A. My next door neighbor who ran the  
00:16:51 17 laundry in town told me that Officer Whitaker  
00:16:54 18 never took the Civil Service test, but he got  
00:16:57 19 on because his brother-in-law was the chief of  
00:17:00 20 police. I referred that to my counsel who  
00:17:03 21 called the state Civil Service and the state  
00:17:06 22 was very upset with him at the time and they  
00:17:09 23 actually offered to come up for the trial or  
00:17:12 24 it might have been a motion.  
CURRAN COURT REPORTING

NOV-06-2006 MON 11:29 AM JASON AND FISCHER

FAX NO.

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Deposition of Kenneth Jean Volume 3  
August 23, 2006

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03:15:50 1 Q. So it was brought up by your  
03:15:53 2 attorney?  
03:15:57 3 A. Yes, sir.  
03:16:00 4 Q. Thank you. And that ended up  
03:16:04 5 causing Officer Whitaker to have to resign  
03:16:08 6 from the force?  
03:16:12 7 A. Yes, sir, and they gave him a \$5,000  
03:16:16 8 severance pay.  
03:16:20 9 MR. STERN: Thank you.  
03:16:24 10 MR. FISCHER: I would just  
03:16:28 11 point out for the record that Mr.  
03:16:32 12 --  
03:16:36 13 MR. CLOHERTY: It might have  
03:16:40 14 been covered earlier. I'm not sure.  
03:16:44 15 MR. FISCHER: No. Mr.  
03:16:48 16 Cloherty, you asked about the  
03:16:52 17 embezzling and Mr. -- and the  
03:16:56 18 witness answered that it involved --  
03:17:00 19 that he made complaints to the  
03:17:04 20 Winchendon Police and that page --  
03:17:08 21 it's in 30, 35, 36.  
03:17:12 22 MR. STERN: He was talking  
03:17:16 23 about today I think.  
03:17:20 24 MR. CLOHERTY: I'm not  
CURRAN COURT REPORTING

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03:18:28 1 disputing what the earlier day's  
03:18:32 2 transcripts provided. I thought  
03:18:36 3 today he was talking about involving  
03:18:40 4 Ashburnham.  
03:18:44 5 MR. FISCHER: I don't  
03:18:48 6 remember that.  
03:18:52 7 MR. STERN: He said it might  
03:18:56 8 have been his mistake so.  
03:19:00 9 MR. FISCHER: Are we  
03:19:04 10 finished?  
03:19:08 11 MS. PELLETIER: Before we go  
03:19:12 12 off the record, unless I am missing  
03:19:16 13 something, all the sets of answers  
03:19:20 14 to interrogatories which we received  
03:19:24 15 from Ken Jean, the last  
03:19:28 16 Interrogatory which was number 13  
03:19:32 17 sets forth an action and then says  
03:19:36 18 "without waiving" and it's blank and  
03:19:40 19 then there's a signature of both Mr.  
03:19:44 20 --  
03:19:48 21 MR. FISCHER: May I see?  
03:19:52 22 MS. PELLETIER: Yup, Mr. Jean  
03:19:56 23 and Mr. Fischer, and if necessary we  
03:19:59 24 can make this one an exhibit. I  
CURRAN COURT REPORTING

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03:17:11 1 would ask for a supplement for that  
03:17:15 2 assuming that there is a substantive  
03:17:19 3 response.  
03:17:23 4 MR. STERN: At the top of the  
03:17:27 5 page it says, "Without waiving, see  
03:17:31 6 answers to preceding interrogatories  
03:17:35 7 and allegations of complaint." You  
03:17:39 8 want a copy of mine? Are you  
03:17:43 9 talking about the -- what, this is a  
03:17:47 10 different one?  
03:17:51 11 MR. FISCHER: You have --  
03:17:55 12 MR. CLOHERTY: Do we need to  
03:17:59 13 do this on the record?  
03:18:03 14 MS. PELLETIER: I just want  
03:18:07 15 to make a record of the fact that I  
03:18:11 16 don't have a complete set of answers  
03:18:15 17 to interrogatories.  
03:18:19 18 MR. FISCHER: That's  
03:18:23 19 Ashburnham and this is Wolski.  
03:18:27 20 There's a sentence --  
03:18:31 21 MS. PELLETIER: I'm  
03:18:35 22 requesting on the record that I  
03:18:39 23 receive a response to that,  
03:18:43 24 Mr. Fischer.  
CURRAN COURT REPORTING

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03:17:49 1 MR. FISCHER: I think that  
03:17:53 2 there's a sentence that's missing  
03:17:57 3 from the one you showed me which  
03:18:01 4 is --  
03:18:05 5 MS. PELLETIER: I don't need  
03:18:09 6 the answer on the record 'cause I'd  
03:18:13 7 like you to confer with your client  
03:18:17 8 to make sure that's accurate before  
03:18:21 9 we put it and if that's all that it  
03:18:25 10 is, you can just put it to me in  
03:18:29 11 writing.  
03:18:33 12 MR. FISCHER: Fine.  
03:18:37 13 MR. STERN: It's just two  
03:18:41 14 words, "without waiving," and it  
03:18:45 15 doesn't go anywhere.  
03:18:49 16 MR. CLOHERTY: Go off the  
03:18:53 17 record. Are we all set?  
03:18:57 18 MS. PELLETIER: Go off.  
03:19:01 19 (Whereupon, the deposition suspended  
03:19:05 20 at 3:18 p.m.)  
03:19:09 21  
03:19:13 22  
03:19:17 23  
03:19:21 24  
CURRAN COURT REPORTING



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\*\*\*\*\*  
KENNETH AND PAMELA PRICE JEAN

Plaintiffs

v.

CITY OF ASHBURNHAM POLICE  
DEPARTMENT, CITY OF WINCHENDON  
POLICE DEPARTMENT, ROB HARRINGTON,  
in his capacity as CHIEF OF THE WINCHENDON  
POLICE DEPARTMENT, JACK MURRY, in his  
capacity as CHIEF OF THE ASHBURNHAM  
POLICE DEPARTMENT, TODD C. PARSONS  
RAYMOND M. ANAIR, ROBERT BRENNON,  
WILLIAM P. GEOFFROY, BRIAN HART,  
KEVIN AHEARN, KEVIN E. WOLSKI  
OFFICER JOHN DOE, OFFICER JOHN POE.

Defendants  
\*\*\*\*\*

C.A. NO. 03-12306FDS

SUPPLEMENTAL INTERROGATORY TO DEFENDANT, ROB HARRINGTON

1. Please describe all facts and circumstances regarding the departure of Officer Whitaker from the Winchendon Police force, including in your answer any involvement of either of the plaintiffs regarding actions leading to Officer Whitaker's departure, retirement, removal or resignation as a police officer; the reasons for Officer Whitaker's departure as a police officer; all other facts and circumstances in detail regarding Officer Whitaker's departure as a police officer.

Respectfully submitted,  
Kenneth Jean, et al  
by their counsel

Date: 8/28/06

Andrew M. Fischer  
BB0# 167040  
JASON & FISCHER  
47 Winter Street  
Boston, MA 02108  
(617) 423-7904



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\*\*\*\*\*

KENNETH AND PAMELA PRICE JEAN

Plaintiffs

v.

CITY OF ASHBURNHAM POLICE  
DEPARTMENT, CITY OF WINCHENDON  
POLICE DEPARTMENT, ROB HARRINGTON,  
in his capacity as CHIEF OF THE WINCHENDON  
POLICE DEPARTMENT, JACK MURRY, in his  
capacity as CHIEF OF THE ASHBURNHAM  
POLICE DEPARTMENT, TODD C. PARSONS  
RAYMOND M. ANAIR, ROBERT BRENNON,  
WILLIAM P. GEOFFROY, BRIAN HART,  
KEVIN AHEARN, KEVIN E. WOLSKI  
OFFICER JOHN DOE, OFFICER JOHN POE.

Defendants

\*\*\*\*\*

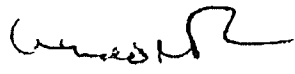
C.A. NO. 03-12306FDS

SUPPLEMENTAL INTERROGATORY TO DEFENDANT, TOWN OF WINCHENDON

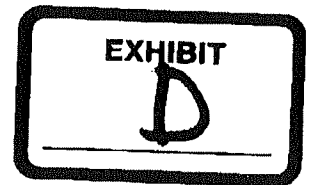
1. Please describe all facts and circumstances regarding the departure of Officer Whitaker from the Winchendon Police force, including in your answer any involvement of either of the plaintiffs regarding actions leading to Officer Whitaker's departure, retirement, removal or resignation as a police officer; the reasons for Officer Whitaker's departure as a police officer; all other facts and circumstances in detail regarding Officer Whitaker's departure as a police officer.

Respectfully submitted,  
Kenneth Jean, et al  
by their counsel

Date: 8/25/06

  
\_\_\_\_\_  
Andrew M. Fischer  
BB0# 167040  
JASON & FISCHER  
47 Winter Street  
Boston, MA 02108  
(617) 423-7904





UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-12306-FDS

KENNETH AND PAMELA PRICE JEAN, )  
Plaintiffs )  
 )  
vs. )  
 )  
CITY OF ASHBURNHAM POLICE )  
DEPARTMENT, CITY OF WINCHENDON )  
POLICE DEPARTMENT, )  
ROB HARRINGTON, in his capacity as )  
CHIEF OF THE WINCHENDON POLICE )  
DEPARTMENT, JACK MURRY, in his capacity )  
as CHIEF OF THE ASHBURNHAM POLICE )  
DEPARTMENT, TODD C. PARSONS, )  
RAYMOND M. ANAIR, ROBERT BRENNON, )  
WILLIAM P. GEOFFROY, BRIAN HART, )  
KEVIN AHEARN, KEVIN E. WOLSKI )  
OFFICER JOHN DOE, OFFICER JOHN DOE, )  
Defendants )

**DEFENDANT, ROB HARRINGTON'S,**  
**ANSWER TO SUPPLEMENTAL INTERROGATORY**

**QUESTION**

1. Please describe all facts and circumstances regarding the departure of Officer Whitaker from the Winchendon Police force, including in your answer any involvement of either of the plaintiffs regarding actions leading to Officer Whitaker's departure, retirement, removal or resignation as a police officer; the reasons for Officer Whitaker's departure as a police officer; all other facts and circumstances in detail regarding Officer Whitaker's departure as a police officer.

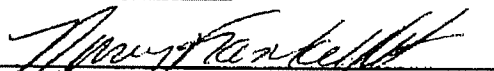
**ANSWER**

**OBJECTION.** The defendant, Rob Harrington, objects to this interrogatory on the grounds that it is calculated to annoy and harass the defendant; seeks information neither relevant nor material to this legal action nor reasonably calculated to lead to the discovery of admissible evidence; and exceeds the scope of discovery permitted by Mass. R. Civ. P. 26.

Signed under the pains and penalties of perjury this 18 day of October, 2006.

  
Rob Harrington

AS TO OBJECTIONS:

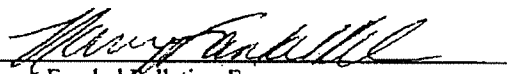
By   
Nancy Frankel Pelletier, Esq., of  
Robinson Donovan, P.C.  
1500 Main Street, Suite 1600  
Springfield, Massachusetts 01115  
Phone (413) 732-2301 Fax (413) 785-4658  
BBO No.: 544402

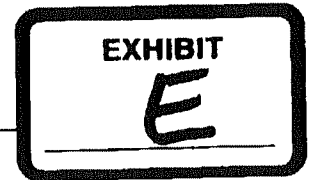
CERTIFICATE OF SERVICE

I, Nancy Frankel Pelletier, Esq., hereby certify that on this 15<sup>th</sup> day of October, 2006, I served a copy of the above upon the parties in the action by mailing, postage prepaid, to counsel:

Andrew M. Fischer, Esq. Jason & Fischer 47 Winter Street Boston, MA 02108	Mark D. Stern, Esq. 34 Liberty Avenue Somerville, MA 02144
Michael Akerson, Esq. Austin M. Joyce, Esq. Andrew J. Gambaccini, Esq. Reardon, Joyce & Akerson, P.C. 397 Grove Street Worcester, MA 01605	Douglas I. Louison, Esq. Regina M. Ryan, Esq. Merrick, Louison & Costello, LLP 67 Batterymarch Street Boston, MA 02110
John J. Cloherty, III Pierce, David, Perritano, LLP Ten Winthrop Square Boston, MA 02110	

Subscribed under the penalties of perjury.

  
Nancy Frankel Pelletier, Esq.



markdsternpc@rcn.com

**From:** "Mark D. Stern P.C." <markdsternpc@rcn.com>  
**To:** <Npelletier@Robinson-Donovan.com>  
**Cc:** "Andrew M. Fischer" <AFischer@jasonandfischer.com>  
**Sent:** Wednesday, October 25, 2006 11:45 AM  
**Subject:** Harrington Supp'l Int. Answer

Nancy

Please treat this as a Rule 7.1 conference. We consider your answer to the Supplemental Interrogatory inadequate. If you want to further confer on this matter, please advise Andy and me when you would like to have us confer with you.

Cordially, Mark Stern

10/25/2006



**markdsternpc@rcn.com**

**From:** "Mark D. Stern P.C." <markdsternpc@rcn.com>  
**To:** "PELLETIER, N" <npettelier@Robinson-Donovan.com>  
**Cc:** "Andrew M. Fischer" <AFischer@jasonandfischer.com>  
**Sent:** Wednesday, October 25, 2006 1:42 PM  
**Subject:** Re: Harrington Supp'l Int. Answer

Nancy

You provided no answer in the copy I received, only an objection that seems to me to be utterly without merit based on the most recent disclosure regarding Whitaker. If either of Plaintiff's acts had anything to do with Whitaker's departure from the force, it could provide an explanation for why they were treated as they were by other officers.

Cordially, Mark Stern

----- Original Message -----

**From:** PELLETIER, N  
**To:** Mark D. Stern P.C.  
**Cc:** RIVENBURGH, R  
**Sent:** Wednesday, October 25, 2006 1:11 PM  
**Subject:** RE: Harrington Supp'l Int. Answer

Pls advise as to why you believe that it is inadequate.

**Nancy Frankel Pelletier, Esq.**

Robinson Donovan, P.C.  
1500 Main Street - Suite 1600  
PO Box 15609  
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Bio | Add to Outlook



**Robinson Donovan, P.C.**

Springfield | Northampton

-----Original Message-----

**From:** Mark D. Stern P.C.

[mailto:markdsternpc@rcn.com]

**Sent:** Wednesday, October 25, 2006 11:46 AM  
**To:** PELLETIER, N  
**Cc:** Andrew M. Fischer  
**Subject:** Harrington Supp'l Int. Answer

Nancy

Please treat this as a Rule 7.1 conference. We consider your answer to the Supplemental Interrogatory inadequate. If you want to further confer on this matter, please advise Andy and me when you would like to have us confer with you.

Cordially, Mark Stern

**IRS Circular 230 Disclosure:** Any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used by any taxpayer, and cannot be used, for the purpose of: (i) avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer; or (ii)

**markdsternpc@rcn.com**

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**From:** "Andrew M. Fischer" <afischer@jasonandfischer.com>  
**To:** "Mark D. Stern P.C." <markdsternpc@rcn.com>  
**Cc:** "PELLETIER, N" <npelletier@Robinson-Donovan.com>  
**Sent:** Wednesday, October 25, 2006 2:27 PM  
**Subject:** Re: Harrington Supp'l Int. Answer

Nancy

I am in accord with Mark

Andrew M. Fischer

Mark D. Stern P.C. wrote:

> Nancy

>

> You provided no answer in the copy I received, only an objection that  
> seems to me to be utterly without merit based on the most  
> recent disclosure regarding Whitaker. If either of Plaintiff's acts  
> had anything to do with Whitaker's departure from the force, it could  
> provide an explanation for why they were treated as they were by other  
> officers.

>

> Cordially, Mark Stern

>

> ----- Original Message -----

> \*From:\* PELLETIER, N <<mailto:npelletier@Robinson-Donovan.com>>

> \*To:\* Mark D. Stern P.C. <<mailto:markdsternpc@rcn.com>>

> \*Cc:\* RIVENBURGH, R <<mailto:rrivenburgh@Robinson-Donovan.com>>

> \*Sent:\* Wednesday, October 25, 2006 1:11 PM

> \*Subject:\* RE: Harrington Supp'l Int. Answer

>

> Pls advise as to why you believe that it is inadequate.

>

>

>

>

>

> \*Nancy Frankel Pelletier, Esq.\*

>

> Robinson Donovan, P.C.

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> <[http://www.robinson-donovan.com/attorney\\_detail.epl?attorney\\_id=22](http://www.robinson-donovan.com/attorney_detail.epl?attorney_id=22)>Add

EXHIBIT

F

markdsternpc@rcn.com

**From:** "Mark D. Stern P.C." <markdsternpc@rcn.com>  
**To:** <npeletier@Robinson-Donovan.com>  
**Cc:** "Andrew M. Fischer" <AFischer@jasonandfischer.com>  
**Sent:** Monday, November 06, 2006 10:09 AM  
**Subject:** your letters

Ms. Pelletier

I received two identical letters from you today. Mr. Fischer indicates he will respond thereto. In the interim, I will be filing a motion to compel as to your failure to answer the Winchendon and Harrington supplemental interrogatory about which we have conferred back and forth. I believe our obligation to confer is now satisfied, but, if you wish to further confer before I file said motion, please advise me this morning.

Cordially, Mark Stern

Cordially, Mark Stern

Deposition of Kenneth Jean Volume 3  
August 23, 2006

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02:50:00 1 Q. Okay. Are you aware of your wife's  
02:50:16 2 being diagnosed as abusing alcohol as of May  
02:50:19 3 of 2001?  
02:50:20 4 A. Am I aware of her being -- I don't  
02:50:24 5 know what she's been diagnosed of, ma'am, in  
02:50:26 6 most part.  
02:50:27 7 Q. Were you present with her when she  
02:50:29 8 went to the hospital in May of 2001?  
02:50:31 9 A. I've been present with her a couple  
02:50:33 10 of times at the hospital. I don't know which  
02:50:35 11 incident you're referring to.  
02:50:36 12 Q. Do you recall any occurrences on  
02:50:42 13 which you actually took her to the hospital?  
02:50:44 14 A. Yes, ma'am.  
02:50:44 15 Q. And do you recall taking her to the  
02:50:46 16 hospital the day after the incident in May of  
02:50:51 17 2001?  
02:50:52 18 A. I believe I do.  
02:50:56 19 Q. Did you provide information to any  
02:50:58 20 healthcare professional about your wife's  
02:51:01 21 history or condition at any time?  
02:51:03 22 A. I don't know, ma'am.  
02:51:05 23 Q. Are you aware of your wife attending  
02:51:07 24 Alcoholics Anonymous?

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02:51:08 1 A. Yes, ma'am, she went with me.  
02:51:09 2 Q. And when is it that you claim you  
02:51:11 3 went?  
02:51:11 4 A. I'm sorry?  
02:51:13 5 Q. When is it that you claim you went?  
02:51:15 6 A. Oh, multiple dates over years.  
02:51:17 7 Q. When did you start going?  
02:51:18 8 A. Would have been the first DUI.  
02:51:21 9 Q. Your first DUI was 15, 20 years ago,  
02:51:25 10 right?  
02:51:25 11 A. I don't know when the first one was,  
02:51:28 12 ma'am. It would have been the first one that  
02:51:32 13 Ashburnham had charged with me.  
02:51:33 14 Q. Was it before you were married?  
02:51:39 15 A. Well, I believe it might have been  
02:51:45 16 before, yeah, I'm almost certain it was.  
02:51:47 17 Q. So you had -- you heard your wife  
02:51:51 18 testify today that she didn't go to AA until  
02:51:55 19 after the house fire?  
02:51:56 20 A. That would be incorrect.  
02:51:57 21 Q. Do you claim that any of the  
02:52:00 22 activities of the Winchendon Police Department  
02:52:32 23 had anything to do with an officer by the name  
02:52:36 24 of Whitaker?

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02:52:36 1 A. Yes, ma'am.  
02:52:37 2 Q. You never mentioned that prior to me  
02:52:39 3 asking you that question, is that fair to  
02:52:40 4 state? We've been sitting here for almost  
02:52:43 5 three hours, correct?  
02:52:44 6 A. Why would I, ma'am? I totally  
02:52:48 7 forgot him. He was not part of this  
02:52:51 8 harassment, that all came about after. He was  
02:52:53 9 a very early age, I'm going to say 1988 or  
02:52:56 10 '89, it was a lone event, it was totally  
02:52:58 11 unrelated to all of this.  
02:52:59 12 Q. Totally unrelated to all of this?  
02:53:01 13 A. Yes, ma'am. Unless any of the  
02:53:26 14 police departments harbor animosity towards me  
02:53:29 15 from that, but I would have no knowledge of  
02:53:30 16 that.  
02:53:32 17 MR. FISCHER: Wait for a  
02:53:33 18 question, answer the question and  
02:53:34 19 then wait for the next question.  
02:53:36 20 Q. Is it fair to state that you don't  
02:54:10 21 have any personal knowledge of any of the  
02:54:13 22 incidents that occurred between the Winchendon  
02:54:17 23 police officers and your wife other than  
02:54:19 24 information you received from your wife?

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02:54:22 1 A. No, ma'am.  
02:54:24 2 Q. From whom did you receive  
02:54:27 3 information other than your wife regarding the  
02:54:29 4 incidents that occurred between the Winchendon  
02:54:31 5 police officers and your wife?  
02:54:32 6 A. Chief Harrington for one. All the  
02:54:35 7 court cases I attended with my wife, that type  
02:54:41 8 of thing, all probation interviews we went to.  
02:54:45 9 Q. Well, what information did you  
02:54:47 10 receive during the course of those events  
02:54:50 11 other than the information from your wife?  
02:54:54 12 From whom did you --  
02:54:55 13 A. I would have been privy to all her  
02:54:57 14 police reports. The police reports with  
02:54:59 15 prostitute on it, I certainly seen a number of  
02:55:01 16 times. Conversations with her counsel,  
02:55:07 17 probation officer, again, Paul Trippi, things  
02:55:12 18 to that effect.  
02:55:13 19 Q. I'm asking you about anybody that  
02:55:15 20 has any personal knowledge of the events that  
02:55:17 21 occurred between your wife and the Winchendon  
02:55:20 22 Police Department, do you have any information  
02:55:23 23 from any source as to the facts that existed  
02:55:27 24 between your wife and the Winchendon police

CURRAN COURT REPORTING

## Deposition of Kenneth Jean Volume 3

August 23, 2006

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<p>03:12:46 1 testimony, sir?</p> <p>03:12:46 2 A. Yes, I do.</p> <p>03:12:47 3 Q. I thought earlier, and correct me if</p> <p>03:12:52 4 I'm wrong, I thought earlier you testified</p> <p>03:12:53 5 that that request to investigate had been made</p> <p>03:12:56 6 to Ashburnham Police Department?</p> <p>03:12:57 7 A. No, sir, Winchendon. That was</p> <p>03:12:59 8 before I moved to Ashburnham.</p> <p>03:13:00 9 Q. So earlier when you were responding</p> <p>03:13:03 10 to my questions about your discussions with</p> <p>03:13:05 11 the police about the investigation of</p> <p>03:13:08 12 embezzlement, you were referring to the</p> <p>03:13:10 13 Winchendon Police Department?</p> <p>03:13:11 14 A. Yes, sir. I'm sorry if I didn't --</p> <p>03:13:14 15 Q. It may have been a misunderstanding</p> <p>03:13:15 16 on my part, I just want to clarify that. Did</p> <p>03:13:18 17 Ashburnham Police have anything to do with the</p> <p>03:13:20 18 investigation of the embezzlement charges,</p> <p>03:13:22 19 sir?</p> <p>03:13:22 20 A. Absolutely not, sir.</p> <p>03:13:24 21 Q. The last question I want to ask you</p> <p>03:13:27 22 is just a follow-up on the Officer Whitaker</p> <p>03:13:32 23 allegations that you said were unrelated to</p> <p>03:13:34 24 this. Do you recall that testimony, sir?</p> <p style="text-align: center;">CURRAN COURT REPORTING</p>	<p>03:14:31 1 A. The Winchendon Council I believe it</p> <p>03:14:33 2 was, yes, sir. I believe it was the</p> <p>03:14:34 3 Winchendon Council when they said 'cause it</p> <p>03:14:35 4 was all done, you know, 'cause it was all</p> <p>03:14:36 5 done, you know, you go make the deal behind</p> <p>03:14:38 6 doors and then they come out and they announce</p> <p>03:14:40 7 it to the judge saying they're going to</p> <p>03:14:41 8 withdraw this police officer in -- what do</p> <p>03:14:45 9 they call it -- fair payment of \$1 to Mr. Jean</p> <p>03:14:47 10 and stuff and then I actually did say</p> <p>03:14:50 11 something after, I said where's my buck, and</p> <p>03:14:51 12 it was Attorney Pusateri said don't push it.</p> <p>03:14:58 13 Q. Attorney Pusateri said don't push</p> <p>03:15:00 14 it?</p> <p>03:15:00 15 A. Yes, sir.</p> <p>03:15:01 16 Q. That was your attorney at the time?</p> <p>03:15:02 17 A. Yes, sir.</p> <p>03:15:02 18 Q. Do you remember who town council was</p> <p>03:15:04 19 for Winchendon at that time?</p> <p>03:15:05 20 A. No, sir.</p> <p>03:15:06 21 Q. Did Officer Whitaker, he was working</p> <p>03:15:08 22 for the Winchendon Police Department at that</p> <p>03:15:09 23 time?</p> <p>03:15:09 24 A. Yes, sir.</p> <p style="text-align: center;">CURRAN COURT REPORTING</p>
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<p>03:13:35 1 A. Yes, sir.</p> <p>03:13:36 2 Q. Just to clarify what it was we were</p> <p>03:13:40 3 referring to. What happened with Officer</p> <p>03:13:43 4 Whitaker back in '88 or '89 as you described?</p> <p>03:13:44 5 A. I believe it was early '89, probably</p> <p>03:13:47 6 February, Officer Whitaker arrested me for</p> <p>03:13:51 7 DWI, it turned out that he had never completed</p> <p>03:13:54 8 the Civil Service test so he could not be a</p> <p>03:13:57 9 police officer in Winchendon and they threw</p> <p>03:14:04 10 his cases out.</p> <p>03:14:04 11 Q. Because he wasn't a qualified police</p> <p>03:14:06 12 officer at the time of the arrest?</p> <p>03:14:07 13 A. And the town paid me the sum of \$1</p> <p>03:14:09 14 to not file a suit against him.</p> <p>03:14:12 15 Q. And how was that payment of \$1 made</p> <p>03:14:15 16 by the town?</p> <p>03:14:15 17 A. They never paid it.</p> <p>03:14:17 18 Q. So do you have any record of any</p> <p>03:14:20 19 agreement from --</p> <p>03:14:21 20 A. It was said in open court. I</p> <p>03:14:23 21 imagine they do the thing in court thing.</p> <p>03:14:25 22 Q. In open court someone from the</p> <p>03:14:27 23 Winchendon Police said we will pay him \$1 not</p> <p>03:14:30 24 to bring a claim?</p> <p style="text-align: center;">CURRAN COURT REPORTING</p>	<p>03:15:09 1 Q. That didn't have anything to do with</p> <p>03:15:12 2 Ashburnham either?</p> <p>03:15:13 3 A. No, sir.</p> <p>03:15:13 4 MR. CLOHERTY: I don't have</p> <p>03:15:14 5 any further questions for you</p> <p>03:15:15 6 subject to the same reservations as</p> <p>03:15:16 7 Ms. Pelletier.</p> <p>03:15:18 8 MR. STERN: I just have one</p> <p>03:15:20 9 more question based on Whitaker</p> <p>03:15:20 10 stuff.</p> <p>03:15:21 11 <b>RECROSS-EXAMINATION</b></p> <p>03:15:21 12 <b>By Mr. Stern:</b></p> <p>03:15:21 13 Q. How did it come -- do you know how</p> <p>03:15:23 14 it came to be known that Officer Whitaker</p> <p>03:15:25 15 didn't take the Civil Service exam?</p> <p>03:15:27 16 A. My next door neighbor who ran the</p> <p>03:15:30 17 laundry in town told me that Officer Whitaker</p> <p>03:15:36 18 never took the Civil Service test, but he got</p> <p>03:15:38 19 on because his brother-in-law was the chief of</p> <p>03:15:40 20 police. I referred that to my counsel who</p> <p>03:15:43 21 called the state Civil Service and the state</p> <p>03:15:44 22 was very upset with him at the time and they</p> <p>03:15:46 23 actually offered to come up for the trial or</p> <p>03:15:49 24 it might have been a motion.</p> <p style="text-align: center;">CURRAN COURT REPORTING</p>

Deposition of Kenneth Jean Volume 3  
August 23, 2006

<p style="text-align: right;">704</p> <p>03:15:50 1 Q. So it was brought up by your 03:15:52 2 attorney? 03:15:52 3 A. Yes, sir. 03:15:52 4 Q. Thank you. And that ended up 03:15:54 5 causing Officer Whitaker to have to resign 03:15:56 6 from the force? 03:15:57 7 A. Yes, sir, and they gave him a \$5,000 03:16:01 8 severance pay. 03:16:02 9 MR. STERN: Thank you. 03:16:03 10 MR. FISCHER: I would just 03:16:04 11 point out for the record that Mr. 03:16:09 12 -- 03:16:09 13 MR. CLOHERTY: It might have 03:16:10 14 been covered earlier. I'm not sure. 03:16:10 15 MR. FISCHER: No. Mr. 03:16:12 16 Cloherty, you asked about the 03:16:13 17 embezzling and Mr. -- and the 03:16:15 18 witness answered that it involved -- 03:16:17 19 that he made complaints to the 03:16:18 20 Winchendon Police and that page -- 03:16:21 21 it's in 30, 35, 36. 03:16:23 22 MR. STERN: He was talking 03:16:24 23 about today I think. 03:16:25 24 MR. CLOHERTY: I'm not CURRAN COURT REPORTING</p>	<p style="text-align: right;">706</p> <p>03:17:11 1 would ask for a supplement for that 03:17:12 2 assuming that there is a substantive 03:17:14 3 response. 03:17:14 4 MR. STERN: At the top of the 03:17:16 5 page it says, "Without waiving, see 03:17:17 6 answers to preceding interrogatories 03:17:19 7 and allegations of complaint." You 03:17:20 8 want a copy of mine? Are you 03:17:25 9 talking about the -- what, this is a 03:17:26 10 different one? 03:17:27 11 MR. FISCHER: You have -- 03:17:30 12 MR. CLOHERTY: Do we need to 03:17:31 13 do this on the record? 03:17:32 14 MS. PELLETIER: I just want 03:17:33 15 to make a record of the fact that I 03:17:34 16 don't have a complete set of answers 03:17:36 17 to interrogatories. 03:17:38 18 MR. FISCHER: That's 03:17:38 19 Ashburnham and this is Wolski. 03:17:40 20 There's a sentence -- 03:17:40 21 MS. PELLETIER: I'm 03:17:41 22 requesting on the record that I 03:17:42 23 receive a response to that, 03:17:45 24 Mr. Fischer. CURRAN COURT REPORTING</p>
<p style="text-align: right;">705</p> <p>03:16:26 1 disputing what the earlier day's 03:16:28 2 transcripts provided. I thought 03:16:29 3 today he was talking about involving 03:16:31 4 Ashburnham. 03:16:31 5 MR. FISCHER: I don't 03:16:32 6 remember that. 03:16:32 7 MR. STERN: He said it might 03:16:34 8 have been his mistake so. 03:16:35 9 MR. FISCHER: Are we 03:16:36 10 finished? 03:16:37 11 MS. PELLETIER: Before we go 03:16:39 12 off the record, unless I am missing 03:16:42 13 something, all the sets of answers 03:16:47 14 to interrogatories which we received 03:16:48 15 from Ken Jean, the last 03:16:52 16 interrogatory which was number 13 03:16:57 17 sets forth an action and then says 03:16:59 18 "without waiving" and it's blank and 03:17:02 19 then there's a signature of both Mr. 03:17:06 20 -- 03:17:06 21 MR. FISCHER: May I see? 03:17:07 22 MS. PELLETIER: Yup, Mr. Jean 03:17:08 23 and Mr. Fischer, and if necessary we 03:17:10 24 can make this one an exhibit. I CURRAN COURT REPORTING</p>	<p style="text-align: right;">707</p> <p>03:17:46 1 MR. FISCHER: I think that 03:17:49 2 there's a sentence that's missing 03:17:51 3 from the one you showed me which 03:17:54 4 is -- 03:17:54 5 MS. PELLETIER: I don't need 03:17:54 6 the answer on the record 'cause I'd 03:17:56 7 like you to confer with your client 03:17:58 8 to make sure that's accurate before 03:17:59 9 we put it and if that's all that it 03:18:01 10 is, you can just put it to me in 03:18:03 11 writing. 03:18:04 12 MR. FISCHER: Fine. 03:18:05 13 MR. STERN: It's just two 03:18:05 14 words, "without waiving," and it 03:18:07 15 doesn't go anywhere. 03:18:08 16 MR. CLOHERTY: Go off the 03:18:09 17 record. Are we all set? 03:18:10 18 MS. PELLETIER: Go off. 03:18:17 19 (Whereupon, the deposition suspended 20 at 3:18 p.m.) 21 22 23 24 CURRAN COURT REPORTING</p>